

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015**

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**HOUSE BILL 1074
Committee Substitute Favorable 6/28/16
Third Edition Engrossed 6/30/16**

Short Title: Schools/CC Facilities – Test Water for Lead.

(Public)

Sponsors:

Referred to:

May 11, 2016

A BILL TO BE ENTITLED

1 AN ACT TO REQUIRE PUBLIC SCHOOLS AND CHILD CARE FACILITIES IN NORTH
2 CAROLINA PERMITTED FOR CONSTRUCTION PRIOR TO JANUARY 1, 1987, TO
3 TEST DRINKING WATER FOR THE PRESENCE OF LEAD AND TO CREATE THE
4 HOUSE SELECT STUDY COMMITTEE ON HEALTH AND SAFETY IN OUTDOOR
5 WATER RECREATION SITES AND TO REGULATE WATER RECREATION
6 ATTRACTIONS TO PROTECT THE HEALTH AND SAFETY OF FACILITY PATRONS
7 AND TO CLARIFY THE SEARCH AUTHORITY OF MARINE INSPECTORS.

9 Whereas, lead is a metal known for its toxicity and potential to harm human health; and

10 Whereas, lead has been shown to negatively affect almost every organ system in the
11 human body; and

12 Whereas, the most sensitive organ system affected by lead is the central nervous
13 system; and

14 Whereas, children six years of age and younger are particularly at risk when exposed to
15 lead; and

16 Whereas, low blood lead levels in children have been associated with reduced IQ and
17 attention span, learning disabilities, poor classroom performance, hyperactivity, behavioral
18 problems, impaired growth, and hearing loss; and

19 Whereas, the United States Centers for Disease Control and Prevention and the United
20 States Environmental Protection Agency have determined that there is no safe blood lead level in
21 children; and

22 Whereas, the Centers for Disease Control and Prevention recommends that all sources
23 of lead exposure to children be controlled or eliminated; and

24 Whereas, under the authority of the federal Safe Drinking Water Act, the United States
25 Environmental Protection Agency's Lead and Copper Rule requires public water systems to test
26 drinking water for the presence of lead in only a percentage of residences; and

27 Whereas, according to an evaluation of public water system data in the federal Safe
28 Drinking Water Information System database collected between 2012 and 2015, 79 water systems
29 in North Carolina were found to test higher than the Agency's action level for lead of 15 parts per
30 billion (ppb); and

31 Whereas, the 79 water systems that tested higher than the federal action level are
32 located in 44 counties across the State; and

33 Whereas, the lead testing protocols prescribed by the federal Lead and Copper Rule
34 that are employed by public water supply systems are aimed at identifying systemwide lead
35 problems rather than the presence of lead in outlets and taps within individual buildings; and



1 Whereas, the federal Lead and Copper Rule does not require testing for the presence of
2 lead in drinking water in schools or child care facilities; and

3 Whereas, unless a school or child care facility is considered a public water system,
4 testing drinking water for the presence of lead is voluntary; and

5 Whereas, effective June 19, 1986, section 1417 of the federal Safe Drinking Water Act
6 prohibited the use of any pipe, any pipe or plumbing fitting or fixture, any solder, or any flux that
7 is not "lead free" in the installation or repair of facilities that provide water for human
8 consumption; and

9 Whereas, North Carolina does not require testing water in schools or child care
10 facilities for the presence of lead; and

11 Whereas, the United States Environmental Protection Agency strongly recommends
12 that schools and child care facilities test drinking water in their buildings and infrastructure for
13 lead; Now, therefore,

14 The General Assembly of North Carolina enacts:

15
16 **PART I. PROTECT NORTH CAROLINA'S CHILDREN FROM LEAD EXPOSURE**

17 **SECTION 1.** This act shall be known as the "Protect North Carolina's Children from
18 Lead Exposure Act of 2016."

19 **SECTION 2.(a)** Definitions. – For purposes of this act, the following definitions shall
20 apply:

- 21 (1) "Agency" means the United States Environmental Protection Agency.
- 22 (2) "Child care facility" means a facility as defined in G.S. 110-86 and licensed
23 pursuant to Article 7 of Chapter 110 of the General Statutes, that was permitted
24 in accordance with either G.S. 153A-357 or G.S. 160A-417, on or before
25 January 1, 1987.
- 26 (3) "Department" means the Department of Environmental Quality.
- 27 (4) "Division" means the Division of Public Health in the Department of Health
28 and Human Services.
- 29 (5) "Drinking water outlet" means any water fountain, faucet, or tap that is
30 regularly used for drinking or food preparation, including ice-making and hot
31 drink machines.
- 32 (6) "Elevated lead level" means a lead concentration in drinking water that exceeds
33 the standard action level established by the Agency.
- 34 (7) "Local health department" means a district health department, a public health
35 authority, or a county health department.
- 36 (8) "Public water system" means the same as that term is defined in
37 G.S. 130A-313.
- 38 (9) "School" means a public school under the direction of a local board of
39 education, a charter school, a regional school, a high school operated as part of
40 The University of North Carolina, a school operated by the Department of
41 Health and Human Services, or a school operated by the State Board of
42 Education that was permitted in accordance with either G.S. 153A-357 or
43 G.S. 160A-417, on or before January 1, 1987.
- 44 (10) "Standard action level" means the federal standard action level for lead, which
45 is 15 parts per billion (ppb).
- 46 (11) "Technical guidance" means any technical guidance for the testing of and
47 reducing the level of lead in drinking water in schools issued either by the
48 Agency, the Division, or the Department pursuant to subsection (h) of this
49 section.

50 **SECTION 2.(b)** Test for the Presence of Lead in Drinking Water Outlets. – Each
51 school and child care facility shall test drinking water outlets in the school or facility for the

1 presence of lead in accordance with both the criteria set out in subsection (c) of this section and
2 the time lines set out in subsection (f) of this section. Each test for the presence of lead shall be
3 analyzed by a laboratory certified in accordance with subsection (e) of this section. Schools may
4 conduct the test for lead in drinking water in conjunction with the annual sanitation inspection
5 required pursuant to G.S. 130A-236, provided that this test is conducted, evaluated, and the results
6 are submitted in accordance with the time lines set out in subsection (f) of this section. Each
7 school and child care facility shall collect and handle drinking water samples in accordance with
8 standards established pursuant to the federal Safe Drinking Water Act (42 U.S.C. § 300f through
9 300j-9).

10 **SECTION 2.(c)** Minimum Criteria for Testing Drinking Water for the Presence of
11 Lead. – In order to comply with subsection (b) of this section, schools and child care facilities
12 shall test drinking water outlets and other locations within or outside the building for the presence
13 of lead as follows:

- 14 (1) All drinking water outlets located within the kitchen and any other food
15 preparation area.
- 16 (2) At least one drinking water outlet in a lavatory located within each wing and on
17 each floor of the building.
- 18 (3) At least one drinking water fountain of the same make and model number
19 located within each wing and on each floor of the building.
- 20 (4) All classroom combination sinks and drinking water fountains.
- 21 (5) All sinks located in classrooms that are used for home economics.
- 22 (6) All sinks located in teachers' lounges.
- 23 (7) All sinks located in nurses' offices.
- 24 (8) All sinks located in special education classrooms that are used for drinking
25 water or food preparation.
- 26 (9) Any sink known to be or visibly used for consumption.
- 27 (10) The location where the water piping from the water supplier or well connects to
28 the water piping system of the building, where practicable.
- 29 (11) Any other locations within or outside the building as directed by the Division or
30 the local health department.

31 **SECTION 2.(d)** Assistance With Compliance. – A school or child care facility may
32 seek the assistance of staff from a local health department, the Division, a public water system, or
33 the Department to help ensure the school's compliance with the requirements of this act.

34 **SECTION 2.(e)** Certified Laboratory. – Each school and child care facility shall
35 submit drinking water samples to a North Carolina State Laboratory Public Health Environmental
36 Sciences Certified Laboratory to conduct the lead analyses required pursuant to this section.

37 **SECTION 2.(f)** Testing, Reporting, and Notification Requirements. –

- 38 (1) Each school and child care facility shall sample and test drinking water for the
39 presence of lead in drinking water outlets and other locations within or outside
40 the building, as provided in subsection (c) of this section, and in accordance
41 with the following time line:
 - 42 a. Sampling and testing shall commence no earlier than February 1, 2017.
 - 43 b. Sampling and testing shall conclude no later than April 1, 2017.
- 44 (2) The certified laboratory shall report the test results to both the Division and to
45 each school or child care facility within 10 business days of completing the
46 analysis of each drinking water sample, and in any case, no later than April 15,
47 2017. The laboratory shall report the results of the analytical testing in a format
48 provided by the Division, which shall include electronic reporting, and shall be
49 filled out completely.
- 50 (3) The Division, in consultation with the Department of Public Instruction and the
51 Division of Child Development and Early Education of the Department of

1 Health and Human Services, shall establish standard criteria for the certified
2 laboratories to employ in order to report the results of the drinking water
3 analyses that include at least all of the following:

- 4 a. A unique identification number for each school and child care facility.
- 5 b. Unique identification codes or a description of each drinking water
6 outlet and each location within or outside the building tested.
- 7 c. The date, to include the month, day, and time of day, on which (i) the
8 sample is collected at the school or child care facility and (ii) the sample
9 is analyzed by the certified laboratory.
- 10 d. The results of the laboratory analysis for each drinking water sample
11 tested.

- 12 (4) Within 10 business days of receiving the results of the drinking water analyses,
13 each school and each child care facility shall make the test results available to
14 the public, free of charge, and shall notify the parents or guardians of the
15 children attending each school and each child care facility of the test results. To
16 meet the requirements of this subdivision, the results may be posted on the Web
17 site for the school, local school administrative unit, or child care facility, as
18 applicable.

19 **SECTION 2.(g)** Additional Requirements and Remediation for Drinking Water
20 Samples that Reveal Elevated Lead Levels. – In the event that a drinking water sample tested and
21 analyzed pursuant to subsection (f) of this section reveals an elevated lead level, the school or
22 child care facility shall do all of the following, as applicable:

- 23 (1) Immediately restrict access to (i) any drinking water outlet with lead
24 concentrations at or above the elevated lead level and (ii) similar drinking water
25 outlets located on the same wing or floor of the building of the outlet with
26 elevated lead levels.
- 27 (2) Immediately take remedial action to ensure that all students and children have
28 access to free, fresh, clean drinking water in the school or child care facility and
29 are not exposed to drinking water with elevated lead levels. Alternate drinking
30 water supplies shall be provided until (i) the drinking water is tested in
31 accordance with this subsection and lead levels are shown, through subsequent
32 analysis to be below the action level, and (ii) the Division determines and
33 provides written documentation to the school or child care facility, the
34 Department of Public Instruction, or the Division of Child Development and
35 Early Education of the Department of Health and Human Services, as
36 appropriate, that the elevated lead levels have been mitigated and the drinking
37 water is safe for human consumption.
- 38 (3) Immediately, or as soon as practicable, but in no instance more than five
39 business days from the date of the receipt of a drinking water test result that
40 reveals an elevated lead level at a drinking water outlet or other locations within
41 or outside the building, conduct a second test of the drinking water outlet or
42 other locations within or outside the building that revealed elevated lead levels
43 in order to confirm the results of the initial analysis required pursuant to this
44 Part. The school or child care facility shall coordinate with local health
45 department, Division, or Department staff or with private consultants who have
46 expertise in potable water sampling to conduct the second test of the drinking
47 water outlet or other locations within or outside the building that revealed
48 elevated lead levels. To the extent practicable, the school or child care facility
49 and the certified laboratory shall expedite the testing and analysis of subsequent
50 confirmatory samples required pursuant to this subdivision.

- 1 (4) As soon as practicable, but in no case more than five business days after
2 completing the analysis of the subsequent drinking water sample, the certified
3 laboratory shall report the results of the subsequent drinking water analysis to
4 both the school or child care facility, as applicable, and to the Division in a
5 format provided by the Division, which shall include electronic reporting, and
6 shall be filled out completely, and in accordance with subsection (f) of this
7 section.
- 8 (5) Within one business day of receipt of a subsequent drinking water test result
9 that confirms an elevated lead level at a drinking water outlet or other locations
10 within or outside the building, the school or child care facility shall notify
11 teachers, other school or facility personnel, and the parents or guardians of
12 children attending the school or child care facility directly through written
13 notice, electronic mail, or other means approved by the Division, the
14 Department of Public Instruction, or the Division of Child Development and
15 Early Education of the Department of Health and Human Services, as
16 applicable. The notification shall include at least the following:
- 17 a. A summary of the results of the tests conducted pursuant to this section
18 and information as to the availability of the complete drinking water test
19 results for review at a public location and on the Web site for the school,
20 the local school administrative unit, or the child care facility, as
21 applicable.
- 22 b. A description of any remedial measures taken or planned to be taken in
23 order to address the elevated lead levels found in the drinking water.
- 24 c. General information on the public health effects and risks posed by the
25 presence of lead in drinking water and information on the availability of
26 additional resources concerning lead in drinking water, including those
27 outlined in the technical guidance and other State or federal resources.
- 28 d. When directed by the Division, information on how and where
29 individuals may obtain blood testing for lead.
- 30 (6) Upon confirmation of elevated lead levels in drinking water samples analyzed
31 pursuant to subdivision (3) of this subsection, the school or child care facility
32 shall determine the source of the lead. The school or facility shall work together
33 with the Division, Department, the Department of Public Instruction, and the
34 Division of Child Development and Early Education of the Department of
35 Health and Human Services, as applicable, to identify the necessary corrective
36 action, including specific measures that will be taken and an estimate of the
37 costs of those measures, to address the confirmed lead contamination.
- 38 (7) Schools and child care facilities that have drinking water with elevated lead
39 levels shall remove the source of lead from drinking water outlets and other
40 locations within or outside the building. Schools and child care facilities may
41 seek technical assistance to comply with this subdivision from the Division and
42 the Department, and local health departments as necessary.
- 43 (8) All corrective action taken by a school or child care facility to remove the
44 source of lead from drinking water outlets and other locations within or outside
45 the building shall be completed within 12 months of the receipt of the
46 subsequent confirmatory test result that reveals an elevated lead level in
47 drinking water.

48 **SECTION 2.(h)** Technical Guidance. – The Division, in consultation with the
49 Department, shall develop and adopt technical guidance, provided that the guidance is at least as
50 protective of public health as the technical guidance for reducing lead in drinking water at schools
51 issued by the Agency. The Division shall work in consultation with the Department of Public

1 Instruction and the Division of Child Development and Early Education of the Department of
2 Health and Human Services to develop State-specific guidance for lead testing, including
3 standards and practices for sample collection and handling, and remediation of drinking water in
4 schools and child care facilities.

5 **SECTION 2.(i) Reports.** – The Division shall:

6 (1) Within five business days of receipt, report all test results that confirm an
7 elevated lead level in a school's or child care facility's drinking water as
8 evidenced by confirmatory testing conducted pursuant to subsection (g) of this
9 section to the chairs of the House Appropriations Committees on Education,
10 Health and Human Services, and Agriculture and Natural and Economic
11 Resources, the chairs of the Senate Appropriations Committees on
12 Education/Higher Education, Health and Human Services, and Natural and
13 Economic Resources, and the Fiscal Research Division.

14 (2) Report to the chairs of the House Appropriations Committees on Education,
15 Health and Human Services, and Agriculture and Natural and Economic
16 Resources, the chairs of the Senate Appropriations Committees on
17 Education/Higher Education, Health and Human Services, and Natural and
18 Economic Resources, and the Fiscal Research Division on the implementation
19 of this act and the test results received pursuant to this section, on or before
20 May 1, 2017. The report shall include:

- 21 a. The number of schools and child care facilities and the name of each
22 school and facility tested, listed by county, and as appropriate, further
23 designation by local school administrative unit.
- 24 b. The number of drinking water outlets tested at each school and child
25 care facility.
- 26 c. Aggregate results for the drinking water testing performed at each
27 school and child care facility.
- 28 d. The identity of each school and child care facility that has drinking
29 water outlets with elevated lead levels and for each school and facility
30 identified:
 - 31 1. The actions taken to remediate or restrict the lead exposure.
 - 32 2. An overview of the actions taken to notify students, their
33 families, and school and child care facility personnel of the
34 findings of the lead tests as required by subsection (g) of this
35 section.
- 36 e. Any corrective action taken by a school or child care facility to remove
37 the source of lead from drinking water.

38 **SECTION 3.(a) Develop and Implement Necessary Information Technology**
39 **Infrastructure.** – The Division shall coordinate with the North Carolina Government Data
40 Analytics Center to leverage the existing public-private partnerships and available resources
41 pursuant to G.S. 143B-1385, including, but not limited to, licensing, software, services, and
42 subject matter expertise, to assist the Division with the development and implementation of a
43 database and the reporting infrastructure necessary to support the testing, reporting, and
44 notification requirements set out in Section 2 of this act.

45 **SECTION 3.(b) State Agencies to Provide Technical and Advisory Assistance.** – On
46 or before December 1, 2016, the Department and the Division shall develop and provide the
47 following information to the Department of Public Instruction and the Division of Child
48 Development and Early Education of the Department of Health and Human Services:

- 49 (1) The technical guidance and best management practices documents for reducing
50 lead in drinking water at schools and child care facilities, issued by the United
51 States Environmental Protection Agency.

- 1 (2) A layman's summary of sampling, collection, handling, and testing methods for
2 drinking water samples conducted in accordance with the federal Safe Drinking
3 Water Act.
4 (3) A list of the laboratories certified to test drinking water, in accordance with the
5 federal Safe Drinking Water Act, for the presence of lead.
6 (4) Any other information the Department and the Division deem appropriate.

7 The Department of Public Instruction and the Division of Child Development and Early Education
8 of the Department of Health and Human Services shall distribute the information provided
9 pursuant to this subsection to each school and each child care facility, respectively, on or before
10 January 1, 2017.

11 12 **PART II. STUDIES**

13 **SECTION 4.(a)** The Division of Public Health in the Department of Health and
14 Human Services, in consultation with the Department of Environmental Quality, shall study and
15 make recommendations on the following:

- 16 (1) A schedule of subsequent testing, as appropriate, of drinking water in schools
17 and child care facilities subject to the provisions of this act, but which did not
18 reveal a presence of lead based on analyses conducted pursuant to Section 2 of
19 this act.
20 (2) Whether schools and child care facilities that were permitted on or after January
21 1, 1987, should test drinking water for elevated lead levels, and the frequency
22 of such tests, if recommended.
23 (3) Public and private funding mechanisms available to schools and child care
24 facilities that must take corrective action to reduce or eliminate the source of
25 lead in drinking water.

26 **SECTION 4.(b)** The Division shall report its findings, recommendations, and any
27 legislative proposals to the Environmental Review Commission and the Joint Legislative
28 Oversight Committee on Health and Human Services on or before December 1, 2016.

29 **SECTION 5.** The Department of Environmental Quality, in consultation with the
30 Department of Public Instruction, shall study and make recommendations as to the appropriate
31 timing and duration of water system flushing for schools prior to the commencement of the
32 academic year. The Department shall report its findings, recommendations, and any legislative
33 proposals to the Environmental Review Commission and the Joint Legislative Education
34 Oversight Committee on or before December 1, 2016.

35 36 **PART III. REIMBURSEMENT OF COSTS**

37 **SECTION 6.(a)** With funds available, the Department of Health and Human Services
38 shall (i) reimburse schools and child care facilities for the costs associated with testing drinking
39 water for the presence of lead as required pursuant to Section 2 of this act and (ii) pay for the costs
40 associated with the Department or a local health department conducting sampling and analysis of
41 drinking water on behalf of schools and child care facilities. The Department of Health and
42 Human Services shall reimburse each school and child care facility upon receipt of appropriate
43 documentation that authenticates the payment for and completion of the required sampling and
44 analysis for lead in drinking water.

45 **SECTION 6.(b)** The Divisions of Public Health and Child Development and Early
46 Education in the Department of Health and Human Services, the Department of Environmental
47 Quality, and the Department of Public Instruction shall use funds available to each agency,
48 respectively, to support the administration and implementation of Sections 2 and 3 of this act.

49 **SECTION 6.(c)** The Department of Health and Human Resources shall, with funds
50 available, coordinate with the North Carolina Government Data Analytics Center in order to

1 develop and implement the database and reporting infrastructure necessary to support the
2 requirements of Sections 2 and 3 of this act.

3 **SECTION 6.(d)** With funds available, and only after all costs associated with testing
4 drinking water for the presence of lead pursuant to Section 2 of this act are reimbursed in
5 accordance with subsection (a) of this Section, the Department of Health and Human Services may
6 reimburse schools and child care facilities for the costs incurred for (i) the provision of alternative
7 drinking water in accordance with Section 2(g)(2) of this act; (ii) identification and removal of
8 drinking water infrastructure that contains lead conducted in accordance with Section 2(g) of this
9 act; and (iii) installation of replacement infrastructure or water treatment devices upon receipt of
10 documentation that authenticates the installation of replacement infrastructure or such treatment
11 devices. Schools shall design and install any replacement infrastructure or treatment devices
12 required pursuant to this act in accordance with G.S. 133.1 and G.S. 115C-521(c).

13 14 **PART IV. HOUSE SELECT STUDY COMMITTEE ON HEALTH AND SAFETY IN** 15 **OUTDOOR WATER RECREATION ATTRACTIONS**

16 **SECTION 7.(a)** Committee Created. – The House Select Study Committee on Health
17 and Safety in Outdoor Water Recreation Sites, hereinafter referred to as "Committee," is created.
18 The purpose of the Committee is to study necessary health and safety requirements for water
19 recreation attractions, including recommendations for required testing of the water used in the
20 attraction for the presence of physical, biological, or chemical substances.

21 **SECTION 7.(b)** Membership. – The Speaker of the House of Representatives shall
22 appoint nine members of the House of Representatives to serve as members of the Committee. In
23 the event a vacancy occurs on the Committee, the Speaker of the House of Representatives shall
24 appoint a replacement from the members of the House of Representatives.

25 **SECTION 7.(c)** Cochairs; Meetings. – The Speaker of the House of Representatives
26 shall designate a chair of the Committee from among the respective appointees. The Committee
27 shall meet upon the call of the chair. A majority of the members of the Committee shall constitute
28 a quorum. The Committee may meet during a regular or special session of the General Assembly,
29 subject to approval of the Speaker of the House of Representatives. The Legislative Services
30 Commission shall grant adequate meeting space to the Committee in the State Legislative
31 Building or the Legislative Office Building.

32 **SECTION 7.(d)** Powers. – The Committee, while in the discharge of its official
33 duties, may exercise all powers provided for under G.S. 120-19 and Article 5A of Chapter 120 of
34 the General Statutes.

35 **SECTION 7.(e)** Report. – The Committee shall submit a final report of its findings
36 and recommendations by December 31, 2016, to the General Assembly. The report may include
37 draft legislation to implement its recommendations. The Committee shall terminate upon filing its
38 final report.

39 **SECTION 7.(f)** Expenses of Members. – Members of the Committee shall receive per
40 diem, subsistence, and travel allowances in accordance with G.S. 120-3.1.

41 **SECTION 7.(g)** The expenses of the Committee shall be considered expenses
42 incurred for the joint operation of the General Assembly. Individual expenses of five thousand
43 dollars (\$5,000) or less, including per diem, travel, and subsistence expenses of members of the
44 Committee, and clerical expenses shall be paid upon the authorization of the chair of the
45 Committee. Individual expenses in excess of five thousand dollars (\$5,000) shall be paid upon the
46 written approval of the Speaker of the House of Representatives. All expenses of the Committee
47 shall be paid from the Legislative Services Commission's Reserve for Studies.

48 **SECTION 7.(h)** Staff. – The Legislative Services Commission, through the
49 Legislative Services Officer, shall assign professional staff to assist the Committee. The House of
50 Representatives' Supervisor of Clerks shall assign clerical staff to the Committee.

1 **PART V. OVERSIGHT AND REGULATION OF WATER RECREATION**
2 **ATTRACTIONS**

3 **SECTION 8.(a)** Part 10 of Article 8 of Chapter 130A of the General Statutes reads as
4 rewritten:

5 "Part 10. Public Swimming ~~Pools~~.Pools and Water Recreational Attractions.

6 **"§ 130A-280. Scope.**

7 This Article provides for the regulation of public swimming pools and water recreation
8 attractions in the State as they may affect the public health and safety. As used in this Article, the
9 term "public swimming pool" means any structure, chamber, or tank containing an artificial body
10 of water used by the public for swimming, diving, wading, recreation, or therapy, together with
11 buildings, appurtenances, and equipment used in connection with the body of water, regardless of
12 whether a fee is charged for its use. The term includes municipal, school, hotel, motel, apartment,
13 boarding house, athletic club, or other membership facility pools and spas. This Article does not
14 apply to a private pool serving a single family dwelling and used only by the residents of the
15 dwelling and their guests. This Article also does not apply to therapeutic pools used in physical
16 therapy programs operated by medical facilities licensed by the Department or operated by a
17 licensed physical therapist, nor to therapeutic chambers drained, cleaned, and refilled after each
18 individual use. As used in this Article, the term "water recreation attraction" means a public
19 bathing or swimming facility with design and operational features that provide patrons recreational
20 activity that is different from that associated with a conventional swimming pool. Water
21 recreation attractions include, but are not limited to, water slides, wave pools, water amusement
22 lagoons, and recirculating artificial whitewater rivers where contact between the patron and the
23 water either occurs or is intended to occur.

24 **"§ 130A-281. Operation permit required.**

25 No public swimming pool or water recreation attraction may be opened for use unless the
26 owner or operator has obtained an operation permit issued by the Department pursuant to rules
27 adopted under G.S. 130A-282.

28 **"§ 130A-282. Commission to adopt rules; exception.**

29 (a) Rules Required. For protection of the public health and safety, the Commission shall
30 adopt and the Department shall enforce rules concerning the construction and operation of public
31 swimming ~~pools~~.pools and water recreation attractions. The Commission shall classify public
32 swimming pools and water recreation attractions on the basis of size, usage, type, or any other
33 appropriate factor and shall adopt requirements for each classification. The rules shall include
34 requirements for:

- 35 (1) Submission and review of plans prior to construction.
- 36 (2) Application, review, expiration, renewal, and revocation or suspension of an
37 operating permit.
- 38 (3) Inspection.
- 39 (4) Design and construction including materials, depth and other dimensions, and
40 standards for the abatement of suction hazards.
- 41 (5) Operation and safety including water source, water quality and testing, fencing,
42 water treatment, chemical storage, toilet and bath facilities, measures to ensure
43 the personal cleanliness of bathers, safety equipment and other safety measures,
44 and sewage and other wastewater disposal.

45 (b) Exception. Public swimming pools constructed or remodeled prior to May 1, 1993,
46 that do not meet specific design and construction requirements of the rules for public swimming
47 pools adopted by the Commission shall not be required to comply with design and construction
48 requirements other than requirements related to the abatement of suction hazards. Public
49 swimming pools constructed or remodeled prior to May 1, 1993, shall comply with all other rules
50 for public swimming pools adopted by the Commission.

1 (c) No single drain, single suction outlet public swimming pools less than 18 inches deep
2 shall be allowed to operate."

3 **SECTION 8.(b)** The Commission for Public Health shall amend its rules regulating
4 water recreation attractions as provided in 15A NCAC 18A .2543 to:

5 (1) Include artificial whitewater river facilities using recirculating water where
6 body contact with the water occurs or is intended to occur.

7 (2) Require artificial whitewater river facilities using recirculating water to test for
8 physical, biological, or chemical substances in the water that may adversely
9 affect the health or safety of facility patrons, as may be deemed necessary by
10 the Commission.

11 The Commission shall adopt temporary rules as soon as practicable to implement the provisions of
12 this section.

13 14 **PART VI. CLARIFY SEARCH AUTHORITY OF MARINE INSPECTORS**

15 **SECTION 9.** G.S. 113-136(k) reads as rewritten:

16 "(k) It is unlawful to refuse to exhibit upon request by any inspector, protector, or other law
17 enforcement officer any item required to be carried by any law or rule as to which inspectors or
18 protectors have enforcement jurisdiction. The items that must be exhibited include boating safety
19 or other equipment or any license, permit, tax receipt, certificate, or identification. It is unlawful to
20 refuse to allow inspectors, protectors, or other law enforcement officers to inspect weapons or
21 equipment if the officer reasonably believes them to be possessed incident to an activity regulated
22 by any law or rule as to which inspectors and protectors have enforcement jurisdiction and the
23 officer has a reasonable suspicion that a violation has been committed, except that an officer may
24 inspect a shotgun to confirm whether it is plugged or unplugged or commercial fishing equipment
25 or gear, as defined in 15A NCAC 03I .0101(3)(c) (Definitions), without a reasonable suspicion
26 that a violation has been committed. It is unlawful to refuse to allow ~~inspectors, inspectors to~~
27 inspect marine and estuarine resources. It is unlawful to refuse to allow ~~protectors, protectors,~~
28 other law enforcement officers to inspect fish or wildlife for the purpose of ensuring compliance
29 with bag limits and size limits. Except as authorized by G.S. 113-137, nothing in this section gives
30 an inspector, protector, or other law enforcement officer the authority to inspect, in the absence of
31 a person in apparent control of the item to be inspected, any of the following:

32 (1) Weapons.

33 (2) Equipment, except for equipment left unattended in the normal operation of the
34 equipment, including, but not limited to, traps, trot lines, crab pots, and fox
35 pens.

36 (3) Fish.

37 (4) Wildlife."

38 39 **PART VII. EFFECTIVE DATE**

40 **SECTION 10.** Except as otherwise provided, this act is effective when it becomes
41 law.